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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,950	10/26/2007	Klaus Deinzer	DEINZER ET AL-1 PCT	3756
25889	7590	11/25/2008		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576				
EXAMINER				
TANNER, JOCELYN C				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
11/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/590,950

**Applicant(s)**

DEINZER ET AL.

**Examiner**

JOCELIN C. TANNER

**Art Unit**

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
- Paper No(s)/Mail Date 8/28/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 19-24 and 26-33, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Brady et al. (US Patent No. 6,129,733).**
5. Regarding claim 19, Brady et al. discloses a holding member or "lens holder" (14) having a living hinge or "flexible backing support" (116), a thin flexible thermoplastic of polypropylene that connects two halves or "peripheral regions"(122, 124) together that can transition between opened and closed configurations and inserted into a device

when closed thus forming a snail-shaped cross-section (column 7, lines 24-26, column 8, lines 43-57, Figs 1, 3, 5).

6. Regarding claim **20**, Brady et al. discloses a flexible backing support (116) that can be transferred from an opened into a closed position (column 8, lines 50-57, Figs. 3, 7).

7. Regarding claims **21 and 22**, Brady et al. discloses a flexible backing support (116) formed of polypropylene that can be elastically deformed between an opened position and a closed position (column 8, lines 50-57).

8. Regarding claims **23 and 24**, Brady et al. discloses an internal groove or "undercut" (48) having cutout portions or "recess" provided at the transition from the flexible backing support (116) to the peripheral region (122, 124) (column 8, lines 58-63).

9. Regarding claim **26**, Brady et al. discloses a tapered region between the peripheral regions (122, 124) (Fig. 3).

10. Regarding claim **27**, Brady et al. discloses a lens holder having a variable cross section (Figs. 1, 3).

11. Regarding claim **28**, Brady et al. discloses mutually connecting peripheral regions (122, 124) wherein opening (134) located on the peripheral region (124) receives the retaining bracket (130) located on the peripheral region (122) (column 9, lines 10-13).
12. Regarding claim **29**, Brady et al. discloses gripping means provided on the peripheral regions (122, 124) wherein ribs (142) allow the user to conveniently handle and manipulate the lens holder (14) (column 9, lines 43-45, Fig. 1).
13. Regarding claim **30**, Brady et al. discloses a passage formed in the closed position of the lens holder (14) that narrows towards an end wherein a lens is received and narrows the passageway.
14. Regarding claim **31**, Brady et al. discloses the undercuts becoming larger in response to the internally cutout portions (column 8, lines 58-63).
15. Regarding claim **32**, Brady et al. discloses a catch means wherein a projection (38) of a cover (12) mates with the recess (40) of the lens holder (14) (column 7, lines 33-35).
16. Regarding claim **33**, Brady et al. discloses a lens holder (14) molded of polypropylene (column 7, lines 23-26).

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. **Claim 25, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Brady et al. (US Patent No. 6,129,733) in view of Buboltz et al. (US Patent No. 5,171,241).**

19.

20. Regarding claim 25, Brady et al. discloses all of the limitations previously discussed except for a spherical depression.

Buboltz et al. teaches a lens holder (1) having two sections or "peripheral regions" (10, 12) wherein upper edge portions define opposing semicircular shoulders (22, 24) that form a spherical depression to receive the IOL optic (column 4, lines 24-28, Fig. 20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a spherical depression to the lens holder of Brady et al., as taught by, Buboltz et al., to smoothly secure the lens within the holder.

***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Donnell (US Patent No. 5,041,134), Ott et al. (US Patent No. 6,447,520) and Bartell (US Patent NO. 4,681,102) relate to the insertion of an intra-ocular lens.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOCELIN C. TANNER whose telephone number is (571)270-5202. The examiner can normally be reached on Monday through Thursday between 9am and 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jocelin C. Tanner/

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11/14/2008

Examiner, Art Unit 3731

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731